

#10 DAC/



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : R. Dennis Nesbitt
For : **MULTI-CORE, MULTI-LAYER COVER GOLF BALL**
Serial No. : 09/877,835
Filed : June 8, 2001
Art Unit No. : 3711
Examiner : A. Hunter
Date of Last Action : November 27, 2002
Customer No. : 24492
Confirmation No. : 2483
Attorney Docket No. : P-5686U1-C1-1
(SLDZ 200214-3)

Cleveland, Ohio 44114-2518
January 15, 2003

PETITION FOR APPLICATION FILING DATE

Assistant Commissioner for Patents
Washington, D.C. 20231

Adjustment date: 03/28/2003 AKELLEY
01/22/2003 CNGUYEN 00000066 09877835
01 FC:1460 Dear Sir: -130.00 OP
Repln. Ref: 03/28/2003 AKELLEY 0010403400
DAH:060308 Name/Number:09877835
FC: 9204 \$130.00 CR

This is a Petition that the above-captioned application be accorded a filing date of June 8, 2001. A check in the amount of \$130 is enclosed for the petition fee. Please charge any fee deficiencies or credit any over payment to Deposit Account No. 06-0308.

CERTIFICATE OF MAILING

I hereby certify that this correspondence and related papers are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 1/16/03.

By: Mary Ann Temesvari
Mary Ann Temesvari

01/22/2003 CNGUYEN 00000066 09877835

01 FC:1460

130.00 OP

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS

The present application comprising 59 pages of specification, 4 pages of claims (20 total with 3 independent claims), 1 page of abstract, and 3 sheets of drawings was filed by Express Mail with the U.S. Patent and Trademark Office on June 8, 2001. An unsigned Declaration was included with the filing of this application.

In response to that filing, on June 26, 2001, a Notice to File Missing Parts of Nonprovisional Application (copy attached as Exhibit A) was mailed by the PTO to Applicant. That Notice indicated a filing date of June 8, 2001.

An executed Declaration and Response to Missing Parts Notice was filed by Applicant on August 2, 2001.

Prosecution ensued.

Suddenly and nearly a year and a half after the filing of the application, on November 27, 2002, the PTO mailed a withdrawal of Previously Sent Notice (Exhibit B) and included a "Corrected Notice." This corrected Notice (Exhibit C) stated that a "filing date has NOT been accorded to the...application." Allegedly, according to the PTO, the application that was filed on June 8, 2001, did not contain any drawings. And, pursuant to 35 U.S.C. § 113, a drawing is required "where necessary for the understanding" of the claimed invention.¹

Applicant and its attorneys have reviewed this matter and believe that the application originally filed June 8, 2001 included three (3) sheets of drawings and for some unknown reason, the PTO's present records are in error. Accordingly, the Notices from the PTO on November 27, 2002 (Exhibits B and C) are in error. Furthermore, it is respectfully urged that the previously recognized filing date for this application of June 8, 2001 be recognized.

Specifically, Applicant's attorneys, who filed this application, reviewed their file. Contained in that file was a postcard submitted concurrently with the Express Mailing of this application on June 8, 2001 that indicated that the application included three (3) sheets of drawings. A copy of that postcard is attached as Exhibit D.

Additional evidence that the original application filed on June 8, 2001

¹ The paper entitled "Withdrawal of Previously Sent Notice" (Exhibit B) also asserted that a Notice mailed on October 4, 2002 was sent. Applicant, nor its attorneys, never received any Notice in this regard on or about that date.

contained three (3) sheets of drawings is found from the stamped postcard received by and returned to Applicant's attorneys by the PTO. That postcard containing the PTO date receipt stamp, lists the application filed on June 8, 2001 as containing the drawings at issue. A copy of that stamped postcard is attached as Exhibit E.

An Affidavit as to the application and its filing is included herewith as Exhibit F. In that Affidavit, the attorney signing the application transmittal papers on June 8, 2001, recalls that, to the best of his knowledge, the application filed on June 8, 2001 contained the three (3) pages of drawings referenced on the corresponding postcard.

It would be significantly damaging and inequitable to deny the June 8, 2001 filing date to Applicant. In addition to the foregoing noted evidence, all supporting the previously recognized June 8, 2001 filing date, the specification of the originally filed application repeatedly refers to Figs. 1-5 on the three (3) sheets of drawings at issue. That is, these drawing sheets were clearly in existence at the time of filing the present application and are in no way an attempt to add "new matter."

Accordingly, Applicant and its attorneys respectfully request the PTO to acknowledge that the application filed on June 8, 2001 included the three (3) sheets of drawings at issue. Upon such acknowledgement, there should be no further issue and the June 8, 2001 filing date should be recognized.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP



Richard M. Klein
Reg. No. 33,000
Mark E. Bandy
Reg. No. 35,788
1100 Superior Avenue
Suite 700
Cleveland, Ohio 44114-2579
(216) 861-5582



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3 P-568601-C1-1

CONFIRMATION NO. 2483

FORMALITIES LETTER



OC00000006225179

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

Date Mailed: 06/26/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION


FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

A copy of this notice MUST be returned with the reply.


Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901



CONFIRMATION NO. 2483

FORMALITIES LETTER



OC000000009168350

Date Mailed: 11/27/2002

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

CONFIRMATION NO. 2483

WITHDRAWAL NOTICE



OC000000009168344

Date Mailed: 11/27/2002

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 10/04/2001 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. We apologize for any inconvenience this caused.

*A copy of this notice **MUST** be returned with the reply.*

Thanh Vo

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS



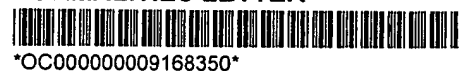
Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

CONFIRMATION NO. 2483

FORMALITIES LETTER



OC000000009168350

Date Mailed: 11/27/2002

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

Thank You

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : R. Dennis Nesbitt
For : **MULTI-CORE, MULTI-LAYER COVER
GOLF BALL**
Serial No. : 09/877,835
Filed : June 8, 2001
Art Unit No. : 3711
Examiner : A. Hunter
Date of Last Action : November 27, 2002
Customer No. : 24492
Confirmation No. : 2483
Attorney Docket No. : P-5686U1-C1-1
(SLDZ 200214-3))

RECEIVED

JAN 23 2003

OFFICE OF PETITIONS

Cleveland, Ohio 44114-2518
January 15, 2003

AFFIDAVIT FOR PETITION FOR APPLICATION FILING DATE

Assistant Commissioner for Patents
Washington, D.C. 20231

I, Richard M. Klein, am an attorney with the law firm of Fay, Sharpe et al. for the assignee of the above-captioned patent application. I declare the following:

1. On June 8, 2001, I attended to the preparation and filing of the above-captioned patent application.

2. I reviewed the application prior to its submittal via Express Mail to the U.S. Patent and Trademark Office (PTO) on June 8, 2001. I signed and dated an application transmittal letter filed with this application on June 8, 2001. To the best of my knowledge, that application, as evidenced on a postcard

also submitted along with the application to the PTO on that same date, included 59 pages of specification, 4 pages of claims (20 total with 3 independent claims), 1 page of abstract, and 3 sheets of drawings. An unsigned Declaration was included with the filing of the application.

3. As far as I am aware, that application, postcard, unsigned Declaration, an Information Disclosure Statement and 1449 forms, and a check in the amount of \$710.00 for the application filing fee was mailed by Express Mail on June 8, 2001 to the PTO.

4. The application filing papers contained a Certificate of Express Mailing. That Certificate indicates an Express Mail label number of EL 852784257US; and a date of deposit of June 8, 2001. The individual who signed that certificate is Ms. Abigail Boone. Ms. Boone is no longer employed with Fay, Sharpe et al., i.e. the law firm handling the present application. Ms. Boone has, as far as I am aware, moved out of state.

5. A return receipt postcard submitted with the filing of this application was received from the PTO. That postcard contained a PTO receipt date of June 8, 2001. That return receipt postcard lists that three (3) sheets of drawings, as part of this application, had been received by the PTO on June 8, 2001.

FURTHER AFFIANT SAYETH NAUGHT.

1/15/2003
Date

Richard M. Klein
Richard M. Klein

STATE OF OHIO)
COUNTY OF CUYAHOGA)

SS

Personally appeared before me this day, the above named Richard M. Klein, to me personally known, who acknowledged that he signed the foregoing instrument for the uses and purposes therein mentioned, and that the same is his free act and deed.

January, 2003. In testimony whereof, I have hereunto set my hand and affixed my seal, this 15th day of

(Seal)
N:\SLDZ\200237\MAT0310A.doc

Thomas E. Kelly Jr.
Notary Public
THOMAS E. KELLY JR., ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.02 R.C.